

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JESS A. WILLARD)
and ROBERTA N. WILLARD,)
)
Plaintiffs,) TC-MD 060659B
)
v.)
)
WASHINGTON COUNTY ASSESSOR,)
)
Defendant.) **DECISION**

Plaintiffs appeal concerning certain designated forestland matters. A trial was convened on April 4, 2007. Jess A. Willard (Willard) participated for Plaintiffs. Mark C. Hertel, county appraiser, represented Defendant.

I. STATEMENT OF FACTS

The subject property is 1.5 acres of rural land, identified as Account R2026442. In earlier years, it received special assessment as being used for farming purposes. Due to a lack of minimum income from the land, Defendant proceeded to remove it from the farm use category. Defendant explained various assessment options in its disqualification letter dated August 5, 2004.

Acting upon that letter, Plaintiffs applied to “rollover” the land to a forestland classification.¹ In support of that option, Willard provided his reforestation plan to Defendant.

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¹ The application was received by Defendant on August 18, 2004.

It pledged:

“The orchard trees will be removed this fall and ground prepared for replanting. I have contacted the Oregon Dept.of Forestry to order 300 fir seedlings. They do not have the proper trees for this zone at this time. I am also pursuing other options.”

(Ptf’s ltr, Oct 2, 2004.) Those reforestation actions never happened; the land remained unchanged.

Based on the plan and intent expressed, the forest deferral application was granted by Defendant effective for the 2004-05 tax year.² No formal written notice of that approval action was mailed to Plaintiffs. Willard testified he was unaware that the plan had been approved, although he admitted he never contacted Defendant’s offices to inquire about the status. He also did not inquire as to the property’s classification after receiving the next tax statement.

On August 11, 2005, Defendant’s appraiser attempted to inspect the property, but was prevented by a locked gate. A subsequent visit occurred May 26, 2006; it was determined that the reforestation plan had not been implemented. On June 15, 2006, Defendant disqualified the 1.5 acres from forest deferral, citing ORS 321.257(2). Plaintiffs appeal from that action, claiming they should have been “officially notified” in 2004 that the forest deferral had been granted. (Test of Willard.)

II. ANALYSIS

“The county assessor shall approve an application for forestland designation if the assessor finds that the land is properly classifiable as forestland.” ORS 321.358(4).³ That statutory language is mandatory; no discretion is involved.

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² Defendant’s internal office notation dated September 23, 2004.

³ All references to the Oregon Revised Statutes (ORS) are to 2005.

Defendant's action in approving the application was both proper and in accordance with Plaintiffs' expressed choice. The question raised by Plaintiffs is whether an "official notice" in writing was required. The answer is no. ORS 321.358(5) provides:

"The application shall be deemed to have been approved unless, within three months of the date such application was delivered to the assessor or prior to August 15, whichever is later, the assessor shall notify the applicant in writing of the extent to which the application is denied."

Plaintiffs' application was received August 18, 2004. Since it was not denied in writing within the next 90 days, it became approved for the 2004-05 tax year. If Plaintiffs had any doubts as to the application status or land classification, a contact with Defendant would have clarified the situation. There is no error or omission by Defendant in this situation.

III. CONCLUSION

The 1.5 acres of land were not adequately used to satisfy the forestland requirements. Defendant's disqualification action was correct. Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is denied.

Dated this _____ day of April 2007.

JEFFREY S. MATTSON
MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This document was signed by Magistrate Jeffrey S. Mattson on April 20, 2007. The Court filed and entered this document on April 20, 2007.